

State. Any State, territory, or district of the United States, including Puerto Rico.

Suppressive area. That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.85-2(a).

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12331, Mar. 23, 1982; 66 FR 21052, Apr. 27, 2001; 67 FR 8465, Feb. 25, 2002; 70 FR 33268, June 7, 2005]

§ 301.85-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85-2a, each quarantined State; or each portion thereof in which golden nematode has been found or in which there is reason to believe that golden nematode is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.85-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the golden nematode.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area

and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.85-2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area and suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.85-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he or she may prescribe, if he or she finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

[37 FR 24330, Nov. 16, 1972, as amended at 70 FR 33268, June 7, 2005]

§ 301.85-2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as golden nematode regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

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(1) *Generally infested area:*

Cayuga County. (A) The Town of Montezuma;

(B) That portion of land within the Town of Mentz owned or operated by Martens Farm which lies in an area bounded as follows: Beginning at the intersection of Tow Path Road and Maiden Lane; then west along Tow Path Road to its intersection with the Town of Mentz boundary; then north along the Town of Mentz boundary to its intersection with Maiden Lane; then east along Maiden Lane to the point of beginning.

Livingston County. (A) That portion of land in the town of Avon bounded as follows: Beginning at a point marked by latitude/longitude coordinates 42°90'56", -77°68'72"; then east along a farm road to coordinates 42°90'54", -77°68'50"; then east along a farm road to coordinates 42°90'60", -77°68'25"; then north along a drainage ditch to coordinates 42°90'69", -77°68'23"; then north along a drainage ditch to coordinates 42°90'79", -77°68'47"; then north to coordinates 42°91'03", -77°68'44"; then west along the south side of a farm road to coordinates 42°91'03", -77°68'57"; then south along a farm road to point of beginning at coordinates 42°90'56", -77°68'72";

(B) The area known as "South Lima North Muck" in the town of Lima bounded as follows: Beginning at a point along the north side of South Lima Road marked by latitude/longitude coordinates 42°85'53", -77°67'38"; then north along a farm road to coordinates 42°85'88", -77°67'12"; then east along a farm road and along a forested edge to coordinates 42°85'94.7", -77°66'60.1"; then north along an irrigation ditch to coordinates 42°86'10.9", -77°66'59.0"; then east along a forested edge to coordinates 42°86'11.2", -77°66'47.7"; then north along a farm road to coordinates 42°87'35", -77°66'51"; then west along a farm road to coordinates 42°87'35", -77°66'84"; then south along Little Conesus Creek to coordinates 42°87'12.56", -77°66'93.38"; then west to include a portion of an access road and gravel clean off site to coordinates 42°87'12.60", -77°67'05.50"; then south to coordinates 42°87'11.19", -77°67'04.43"; then east to coordinates 42°87'11.05", -77°66'99.68"; then north to coordinates 42°87'12.03", -77°66'98.99"; then east to coordinates 42°87'11.97", -77°66'93.67"; then south along Little Conesus Creek to coordinates 42°86'88", -77°67'02"; then west along a farm road to coordinates 42°86'88", -77°67'13"; then south along a farm road to coordinates 42°86'59", -77°67'33"; then south along a farm road to coordinates 42°86'42", -77°67'40"; then west along a farm road to coordinates 42°86'43", -77°67'61"; then south along a farm road to coordinates 42°85'67", -77°68'02"; then east to coordinates 42°85'64", -77°67'41", then south along Little Conesus Creek to coordinates 42°85'53", -77°67'45"; then east to point of beginning at coordinates 42°85'53", -77°67'38";

(C) The area known as "South Lima South Muck" in the town of Lima bounded as follows: Beginning at a point along the south side of South Lima Road marked by latitude/longitude coordinates 42°85'52", -77°67'74"; then south to coordinates 42°85'48", -77°67'74"; then east to coordinates 42°85'48", -77°67'67"; then south to coordinates 42°85'09", -77°67'70"; then south to coordinates 42°84'47", -77°67'72"; then east to coordinates 42°84'46", -77°67'39"; then north along a farm road to coordinates 42°84'77", -77°67'28"; then east along a farm road to coordinates 42°84'88", -77°67'00"; then north along a farm road to coordinates 42°85'12", -77°67'01"; then west along a farm road to coordinates 42°85'12", -77°67'20"; then north along a farm road to coordinates 42°85'16", -77°67'20"; then west along a farm road to coordinates 42°85'18", -77°67'40"; then north to coordinates 42°85'41", -77°67'40"; then west to coordinates 42°85'45", -77°67'66"; then north to coordinates 42°85'52", -77°67'65"; then west to point of beginning at coordinates 42°85'52", -77°67'74"; and

(D) The area known as "Wiggle Muck" in the town of Livonia bounded as follows: Beginning at a point along the west side of Plank Road (State Highway 15A) marked by latitude/longitude coordinates 42°84'89.0", -77°61'36.7"; then west to coordinates 42°84'91", -77°62'03"; then south along a farm road to coordinates 42°84'68", -77°61'92"; then south along a farm road to coordinates 42°84'19", -77°61'88"; then east to coordinates 42°84'22", -77°61'61"; then north along a farm road to coordinates 42°84'87.2", -77°61'68.1"; then east to the west side of Plank Road marked by coordinates 42°84'87.2", -77°61'35.9"; then north to point of beginning at coordinates 42°84'89.0", -77°61'36.7".

Nassau County. The entire county.

Orleans County. The towns of Barre and Clarendon.

Seneca County. The town of Tyre.

Steuben County. (A) The towns of Prattsburg and Wheeler;

(B) The area known as "Arkport Muck North" located in the town of Dansville and bounded as follows: Beginning at a point along the west bank of the Marsh Ditch that intersects a farm road marked by latitude/longitude coordinates 42°42'30", -77°71'21"; then north along the Marsh Ditch to coordinates 42°42'96.1", -77°71'54.0"; then west along a 45-foot wide hedgerow to coordinates 42°42'83.1", -77°72'00.3"; then south through woods, along a farm road, and field border to coordinates 42°42'55", -77°71'89"; then east along a tree line to coordinates 42°42'54", -77°71'80"; then south along a tree line to coordinates 42°42'30", -77°71'57"; then east to point of beginning at coordinates 42°42'30", -77°71'21";

(C) The area known as "Arkport Muck South" located in the town of Dansville and bounded as follows: Beginning at a point along the west side of New York Route 36

marked by latitude/longitude coordinates 42°40'54.5", -77°69'79.0"; then north along the west side of New York Route 36 to coordinates 42°41'45", -77°69'99"; then west along a farm road to coordinates 42°41'45", -77°70'29"; then north along a farm road to coordinates 42°41'60", -77°70'36"; then west along a farm road to coordinates 42°41'62", -77°70'83"; then north along the Marsh Ditch to coordinates 42°41'86", -77°70'97"; then west along a farm road to coordinates 42°41'81", -77°71'21"; then south along a farm road to coordinates 42°41'76.0", -77°71'18.0"; then west along a fallow strip to coordinates 42°41'75.6", -77°71'40.2"; then south along a fallow strip to coordinates 42°41'61.3", -77°71'42.0"; then west along a farm road to coordinates 42°41'60.4", -77°71'68.1"; then south along a farm road on the east side of the Conrail right-of-way (Erie Lackawanna Railroad) to coordinates 42°40'50", -77°71'07"; then east along a farm road to coordinates 42°40'49", -77°70'38"; then north along an irrigation ditch to coordinates 42°40'69.9", -77°70'46.8"; then east along an irrigation ditch to coordinates 42°40'69.7", -77°70'34.3"; then south along the Marsh Ditch to coordinates 42°40'55.0", -77°70'26.5"; then east to point of beginning at coordinates 42°40'54.5", -77°69'79.0";

(D) The property in the town of Cohocton (formerly known as the "Werthwhile Farm") bounded as follows: Beginning at a point along the north side of Brown Hill Road marked by latitude/longitude coordinates 42°45'03.5", -77°53'56.2"; then north along a forest edge to coordinates 42°45'27.5", -77°53'55.7"; then west along a forest edge to coordinates 42°45'27", -77°53'72.9"; then north along a forest edge to coordinates 42°45'47.6", -77°53'72.2"; then west along a forest edge and a hedgerow to the east side of Rex Road to coordinates 42°45'48.7", -77°54'40.7"; then southwest along the east side of Rex Road to coordinates 42°45'39.4", -77°54'53.6"; then south along a hedgerow and a forest edge to coordinates 42°45'05.7", -77°54'54.7"; then east along a hedgerow and the north side of Brown Hill Road to point of beginning at coordinates 42°45'03.5", -77°53'56.2"; and

(E) The property located in the town of Fremont that is bounded as follows: Beginning at a point on Babcock Road that intersects a farm road marked by latitude/longitude coordinates 42°43'68.06", -77°57'51.11"; then west along the farm road to coordinates 42°43'67.22", -77°57'80.56"; then south to coordinates 42°43'60.00", -77°57'80.28"; then west to coordinates 42°43'59.44", -77°58'07.50"; then south to coordinates 42°43'35.28", -77°58'06.39"; then east to coordinates 42°43'33.06", -77°57'78.89"; then south to coordinates 42°43'18.61", -77°57'77.78"; then east to coordinates 42°43'23.06", -77°57'71.39"; then north to coordinates 42°43'30.28", -77°57'63.89"; then east to coordinates 42°43'30.28", -77°57'61.39"; then north to coordinates 42°43'49.44", -77°57'56.94"; then east to coordinates 42°43'49.17",

-77°57'49.72"; then north to the point of beginning at coordinates 42°43'68.06", -77°57'51.11".

Suffolk County. The entire county.

Wayne County. The town of Savannah.

(2) *Suppressive area:* None.

[51 FR 30050, Aug. 22, 1986, as amended at 69 FR 249, Jan. 5, 2004; 69 FR 64640, Nov. 8, 2004; 76 FR 60358, Sept. 29, 2011; 78 FR 1714, Jan. 9, 2013; 78 FR 3827, Jan. 17, 2013]

§ 301.85-2b Exempted articles.¹

(a) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (4) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(1) Small grains, if harvested in bulk or directly into approved containers, and if the small grains and containers thereof have not come into contact with the soil; or, if they have been cleaned to meet State seed sales requirements.

(2) Soybeans (other than for seed), if harvested in bulk or directly into approved containers, and if the soybeans and containers thereof have not come into contact with the soil.

(3) Unshucked ear corn, if harvested in bulk or directly into approved containers, and if the corn and containers thereof have not come into contact with the soil.

(4) Used farm tools, if cleaned free of soil.

(b) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (b) (1) through (3) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs: *Provided*, That this exemption shall not apply to any class of regulated articles specified by an inspector in a written notification to the owner or person in possession of the premises that the movement of such articles from such premises under this exemption would involve a hazard of spread of the golden nematode:

¹The articles hereby exempted remain subject to applicable restrictions under other quarantines and other provisions of this subpart.